

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2007

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1988

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1988, entitled "A Bill for an Act Relating to Honey."

The purpose of this bill is to establish labeling and advertising requirements for products produced in whole or in part from Hawaii-produced honey.

This bill is objectionable because it raises serious constitutional issues, particularly in its effect on interstate commerce and commercial free speech.

While I applaud this bill's attempt to ensure the accurate labeling and advertising of honey products that are produced in Hawaii and the integrity of products that claim to contain Hawaii's high quality honey, this bill does not limit its application to such. Instead it is far-reaching in its application to all honey products that contain any amount of Hawaii-produced honey, even reaching labeling requirements for those who were not planning on making any claims with regard to geographic origin. For example, this bill would require

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particular geographic identification for honey with a very small quantity of Hawaii honey, even in the absence of a desire by the manufacturer to make any representation as to type or origin of the honey. Thus, this bill is simply not narrowly tailored to prevent the deception or misleading of consumers, as its labeling and advertising requirements would apply even to products that may not otherwise make a claim to contain Hawaii-produced honey or are not otherwise deceptive or misleading. Therefore, this bill's labeling and advertising requirements may be deemed to be more extensive than necessary to advance the Legislature's purpose, in violation of the First Amendment.

The bill also presents significant Commerce Clause issues, especially as it reaches products distributed outside Hawaii. The bill attempts to regulate manufacturers and advertisers outside of Hawaii who deal with products that contain at least a portion of Hawaii-produced honey. Additionally, the wording of this bill would require honey produced outside of Hawaii to meet Hawaii's grade standards.

In contrast, current law regulating the labeling of Hawaii-grown coffee applies only to the portion of the coffee that is Hawaii-grown. Similarly, labeling requirements for Hawaii-grown macadamia nuts apply only to package labels making the geographic claim that all or a portion of its macadamia nut

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contents were grown in Hawaii. These laws are more narrowly tailored to achieving accurate and non-deceptive labeling of Hawaii-grown products.

I believe this bill should be re-written so that misleading or deceptive claims about Hawaii honey are prohibited, but also so that the bill does not violate provisions of the United States Constitution.

For the foregoing reasons, I am returning Senate Bill No. 1988 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read 'Linda Lingle', with a large, stylized loop at the end.

LINDA LINGLE
Governor of Hawaii